IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19/12/2003

CORAM

THE HONOURABLE MR. JUSTICE P.D.DINARAKAN

C.R.P.(P.D) No. 2012 of 2003
and
C.M.P.No. 14594 of 2003

1. Cholamandalam Investment & Finance
Co., Ltd., rep. through its Vice
President, TIAM House,
28, Rajaji Salai,
Chennai - 600 001.

2. Cholamandalam Investment & Finance
Co., Ltd., rep. through its Branch
Manager, 24, New Agraharam Street,
Palani Road,
Dindigul - 2. .....Petitioners

- Vs -

1. A. Rajan,
S/o. Arumugam

2. A. Palaniappan
S/o. Arumugam
both residing at
15-B, Chellandiamman Koil
1st Street,
Dindigul - 1. .....Respondents

Civil Revision Petition, under Article 227 of the Constitution of India, against the order dated 24.02.2003 made in I.A.No.218 of 2002 in O.S.No.109 of 2002 on the file of Second Additional Munsif Court, Dindigul, as stated therein.

!For Petitioner :: Mr. M.B.Raghavan

^For Respondents:: Mr. M. Ajmal Khan

:O R D E R
By consent of both the parties, the main Civil Revision Petition itself is taken up for hearing and disposal.

2. The short question that arises for consideration in this petition is as to whether the order dated 24.02.2003 made in I.A.No.218 of 2002 in O.S.No.109 of 2002 by Second Additional District Munsif, Dindigul, refusing to refer the dispute between the parties for arbitration as per clause 23 of the Agreement, marked as Ex.R.1 is justified in law?

3. Admittedly, the respondents herein laid the suit, questioning the very validity of the agreement dated 15.06.2000, which provides for arbitration clause. In this regard, I am inclined to refer Section 1 6(1) of the Arbitration and Conciliation Act 1996, which reads as follows:-

The arbitral Tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement and or that purpose

(a) an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract ; and

(b) a decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.

4. As per Section 16(1) of the Act, the question including ruling on any objections with respect to the existence or validity of the arbitration agreement also could be dealt with by the arbitral Tribunal.

5. In that view of the matter, the order of the Second Additional District Munsif, Dindigul dated 24.02.2003 made in I.A.No.218 of 2002 in O.S.No.109 of 2002 is set aside and this petition is allowed. Learned District Munsif, Dindigul is directed refer the dispute between the parties, without prejudice for arbitration, exercising clause 23 of the agreement. The connected C.M.P is closed.

Dpn/-